



# California Environmental Protection Agency

Air Resources Board • Department of Pesticide Regulation • Department of Toxic Substances Control  
Integrated Waste Management Board • Office of Environmental Health Hazard Assessment  
State Water Resources Control Board • Regional Water Quality Control Boards



Linda S. Adams  
Secretary for  
Environmental Protection

Arnold Schwarzenegger  
Governor

Certified Mail: 7003 1680 0000 6174 8456

June 1, 2007

Mr. Demetrious Shaffer  
Fire Chief  
City of Newark Fire Department  
37101 Newark Boulevard  
Newark, California 94560

Dear Mr. Shaffer:

The California Environmental Protection Agency (Cal/EPA) conducted a program evaluation of the City of Newark Fire Department's Certified Unified Program Agency (CUPA) on May 15, 2007. The evaluation was comprised of an in-office program review. The State evaluator completed a Certified Unified Program Agency Evaluation Summary of Findings with you and your agency's program management staff, which includes identified deficiencies, with preliminary corrective actions and timeframes, program observations and recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that the City of Newark Fire Department's CUPA program performance meets or exceeds standards.

Cal/EPA also noted during this evaluation that the City of Newark Fire Department's CUPA has worked to bring about a number of local program innovations, including: conducting a robust fee accountability assessment each year and promoting the optimal routes businesses should take when transporting hazardous materials through the City of Newark to protect residents and avoid hampering traffic flow in the event of an accidental hazardous release. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program web site to help foster a sharing of such ideas statewide.

Mr. Demetrious Shaffer  
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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at [jbohon@calepa.ca.gov](mailto:jbohon@calepa.ca.gov).

Sincerely,



Don Johnson  
Assistant Secretary  
California Environmental Protection Agency

cc: Ms. Holly A. Guier, CUPA Manager (Sent Via Email)  
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Newark, California 94560

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## **CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS**

**CUPA:** **Newark Fire Department  
Hazardous Materials Bureau**

**Evaluation Date:** **May 15, 2007**

### **EVALUATION TEAM**

**Cal/EPA:** **JoAnn Jaschke**

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to JoAnn Jaschke at (916) 323-2204.

	<b><u>Deficiency</u></b>	<b><u>Preliminary Corrective Action</u></b>
1	<p>The CUPA is not ensuring that businesses are certifying at least once every three years that they have reviewed their business plan and that necessary changes were made to the plan. Additionally, the CUPA is not ensuring that businesses annually submit their hazardous materials inventory forms or certification statement certifying that there is no change in there inventories.</p> <p>The CUPA requires businesses to annually certify that there is no change in both the business plan and the chemical inventory or submit updated/revised documentations. Approximately, 90 businesses have outdated information.</p> <p>HSC 25501(a), 25505(c) and 25509</p>	<p>The CUPA identified this as a deficiency in their FY 05/06 self-audit. To address this, the CUPA improved their ability to track non-compliant businesses and recently sent letters to all the non-compliant facilities, requiring them to submit the documentation within 15 days.</p> <p>Additionally, the CUPA intends to initiate formal enforcement against those businesses that fail to comply.</p> <p>The corrective action implemented by the CUPA sufficiently corrected this deficiency.</p>

Certified Unified Program Agency (CUPA)  
Evaluation Summary of Findings

CUPA Representative

HOLLY GUIER  
(Print Name)

Holly Guier  
(Signature)

Evaluation Team Leader

JoAnn Jaschke  
(Print Name)

JoAnn Jaschke  
(Signature)

Certified Unified Program Agency (CUPA)  
Evaluation Summary of Findings

**PROGRAM OBSERVATIONS AND RECOMMENDATIONS**

*The observations and recommendations provided in this section address activities the CUPA is implementing and/or may include areas for continuous improvement not specifically required of the CUPA by regulation or statute*

1. **Observation:** The CUPA is relying on enforcement settlement money to fund a good portion of their program costs, including some of their fixed personal costs. For the FY 04/05 and 05/06 approximately 40% of the CUPA's expenses were covered from settlement money. Additionally, one of the CUPA's inspection positions was vacated in December 2005. This inspector conducted all the UST inspections and was the only certified UST inspector. To ensure the program goals were met, the CUPA manager reassigned some of the inspector's duties and contracted with a consultant to fulfill the remaining duties previously held by the inspector. Currently, the CUPA's consultants are the only certified UST inspectors. In 2006, the hourly rate with benefits for the contract consultant was \$90 while the hourly rate with benefits for the inspector position was \$44.

**Recommendation:** The CUPA should look into other funding options. Funding fixed personal costs with highly variable money may lead to long term funding deficits and program instabilities. Additionally, the CUPA may want to consider the long term funding expenses and program effectiveness when using consultants to fulfill the duties previously performed by a city inspector.

2. **Observation:** In the FY 04/05 the CUPA collected \$84,000 in enforcement settlement cases and in FY 05/06 the CUPA collected \$143,000 in enforcement settlement cases. The case with Arch Mirror reached an AEO settlement on May, 25, 2005. The settlement included \$54,000 in cash fines, and Arch Mirror was required to send 20 employees to compliance school, conduct three training classes for Newark businesses in 2005, 2006, and 2007, complete a CalOHSA compliance audit, and annually complete environmental compliance audits.

**Recommendation:** The CUPA should continue utilizing the AEO process for cases that the Alameda County DA is unable to pursue.

3. **Observation:** The CUPA submitted an extra \$655 in state surcharge fees (\$385 in FY 03/04 for the HAZMAT surcharge, formerly CUPA oversight, \$240 in FY 05/06 for the HAZMAT surcharge, and \$30 in FY 05/06 for the UST surcharge).

**Recommendation:** The CUPA should deduct \$655 from the next FY state surcharges that are submitted to the state, (\$625 from the HAZMAT surcharge and \$30 from the UST surcharge) to account for the overpayment from the FY 03/04 and 05/06.

Certified Unified Program Agency (CUPA)  
Evaluation Summary of Findings

**EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION**

1. The CUPA plays a big role in the one-stop permitting for the City of Newark by maintaining a close working relationship with other City departments. The planning staff alerts the CUPA staff when a new business considers moving to Newark. The building department staff route plans for sites with hazardous waste materials to the CUPA for review. The business license department questions new businesses about hazardous materials. This allows the City of Newark to efficiently assist the business.
2. The CUPA's coordination with the other CUPAs in Alameda County is excellent. The CUPA participates and attends the monthly meetings for all the CUPAs in Alameda County and the Alameda County Enforcement Task Force Meetings. The CUPA also serves as the treasurer for the Task Force Committee.
3. The CUPA maintains highly organized files, making it easy to locate information. Additionally, the CUPA developed standard sample files identifying the information found within each section of the folders.
4. The CUPA's conducts a robust fee accountability assessment each year. The assessment examines the labor costs (including hourly rates), time assignments to carry out program tasks and available work hours, a comparison of the projected expenses verses the actual expenses, revenues, cost recovery analysis, and a projection of the revenue versus expenses for the next fiscal year.
5. The CUPA does an excellent job at meeting the required inspection frequencies. In addition, the CUPA conducts several combined inspections to maximize staff resources. The CUPA staff routinely combine CUPA inspections with storm water, universal waste, and certified used oil collection centers.
6. The CUPA conducted a transportation study to determine the best route businesses should take when transporting hazardous waste through their city. Hazardous materials transportation route maps were distributed to the businesses. The CUPA promotes those routes to protect their community and to avoid hampering traffic flow in the event of a hazardous release.